

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-014607

05/27/2015

HONORABLE KATHERINE COOPER

CLERK OF THE COURT
D. Harding
Deputy

STATE OF ARIZONA, et al.

PETER S SPAW

v.

WARREN BRAITHWAITE, et al.

WARREN BRAITHWAITE
BOOKING #P778250
4TH AVENUE JAIL
PHOENIX AZ 85003

KENNETH S COUNTRYMAN
ADAM E LANG
THOMAS J MARLOWE
ALAN M SIMPSON
TUTU TARKPOR
45747 TULIP LANE
MARICOPA AZ 85139
SHERRY WASHINGTON
2101 E DESERT INN DR
CHANDLER AZ 85249
SETH PATRICK MCGINNITY
CAMERON A MORGAN
THOMAS M CONNELLY
DANIEL R RAYNAK
JUDGE MULLINS

MINUTE ENTRY

Courtroom ECB-514

9:11 a.m. This is the time set for a status conference. Appearances are as follows:

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- State of Arizona is represented by counsel, Peter S. Spaw;
- Plaintiff Wells Fargo Bank is represented by counsel, Adam E. Lang;
- Plaintiffs Bryan P. Fleming and Barron-Fleming Construction Group, Inc. are represented by counsel, Thomas J. Marlow, Seth P. McGinnity and Thomas M. Connelly;
- Defendants Ezeugbi are represented by counsel, Kenneth S. Countryman;
- Defendant Warren Braithwaite is represented by counsel, Daniel R. Raynak.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Counsel for the State advises that all of the forfeiture claims have resolved or are in the process of resolving, except for the Braithwaite claim. Braithwaite's claim involves personal property and funds seized from Wells Fargo accounts. In addition to Braithwaite, Wells Fargo and Fleming Construction are asserting claims to some or all of those funds. Braithwaite is incarcerated awaiting sentencing. The State believes that it will resolve the personal property. Litigation over the currency going forward will involve Braithwaite, Fleming Construction, Wells Fargo, and possibly the State.

Procedurally, the case was stayed March 16, 2012 pending resolution of the collateral criminal action (CR2011-123789-017). Other than Braithwaite's sentencing and a Motion for New Trial, that matter is done. The Court granted Motions to Intervene filed by Wells Fargo and Bryan P. Fleming/Barron-Fleming Construction Group, Inc.'s (collectively Fleming Construction). See Orders dated March 2, 2012 and April 23, 2015. Both Wells Fargo and Fleming have filed Third-Party Complaints. See pleadings filed March 27, 2012 and May 4, 2015. Answers have not been filed.

Braithwaite's current counsel, Dan Raynak, is withdrawing. New counsel, Cameron Morgan, is present but has not yet been retained and does not represent Braithwaite yet. Counsel for Fleming would like to get things moving sooner rather than later and requests the Court lift the stay. With the criminal matter concluded as to issues concerning the forfeiture, there does not appear to be a need for the stay.

IT IS HEREBY ORDERED as follows:

By June 10, 2015, Mr. Morgan (or other counsel, if retained) shall file a Notice of Appearance on behalf of Braithwaite. If no one appears for Braithwaite by June 10, 2015, Braithwaite will be deemed to be proceeding pro per. The stay remains in place **until June 10, 2015**, at which time it is lifted, and the case shall proceed.

By June 30, 2015, Answers shall be filed to the Third-Party Complaints.

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IT IS ORDERED setting a telephonic status conference on **July 16, 2015 at 8:30 a.m.** (time allotted: 15 minutes).

IT IS FURTHER ORDERED that Counsel for the Plaintiff is to initiate the telephonic conference by first arranging the presence of all other counsel or self-represented parties on the conference call and by calling this division (602-372-1160) promptly at the scheduled time. All parties appearing telephonically must be joined in a single conference call and be prepared to hold until called to testify.

The call should be placed from a telephone in an area with no background noise as this will prevent the parties from hearing the proceedings in the courtroom. The call may not be placed from a vehicle. Also, the use of cellular telephones to call into the hearing is strongly discouraged.

IT IS ORDERED inmate Warren Braithwaite, inmate number P778250, shall telephonically appear, if not represented by counsel, before Honorable Karen Mullins on **July 16, 2015 at 8:30 a.m.**

IT IS FURTHER ORDERED that the Maricopa County Sheriff's Office shall make arrangements for the inmate to have telephone access at the time set for hearing. The telephone call shall be placed by the Maricopa County 4th Avenue Jail to **602-372-1160**.

IT IS FURTHER ORDERED continuing this matter on the Dismissal Calendar for dismissal on **September 30, 2015**.

9:33 a.m. Matter concludes.

*** **PLEASE NOTE:** Effective June 22, 2015, due to judicial calendar rotations, all cases assigned to Judge Katherine Cooper will be re-assigned as follows:

**Honorable Karen Mullins
Old Courthouse, Courtroom 309
125 W. Washington Street
Phoenix, AZ 85003
(602) 372-1160**